



Mercedes-Benz

November 23, 2010

Mercedes-Benz USA, LLC  
A Daimler Company

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Re: *Ex Parte* Letter - Universal Service Assessment- Automotive Telematics  
CC Docket Nos. 96-45, WC Docket No. 06-122

Dear Ms. Dortch:

Mercedes-Benz USA, LLC (MBUSA), on behalf of its parent company, Daimler AG, submits the following comments regarding the impact of potential changes in the Universal Service Fund (USF) contribution methodology on providers of automotive telematics which the Federal Communications Commission (FCC) is currently reviewing. MBUSA urges the FCC to ensure that USF charges remain proportional to the usage characteristics of a particular service – as Congress required in mandating equitable and nondiscriminatory assessments, and as occurs under the existing revenue-based methodology. In structuring reform proposals, the FCC is addressing not only the legacy voice-centered system upon which USF has traditionally been based, but also the emerging broadband environment. In the latter, there will be varying services whose capacity requirements will contrast significantly. Automotive telematics is just one discrete service where broadband can expand applications and users. Imposing a uniform USF fee across all services – including those that make minimal use of the PSTN or broadband networks – would irreparably harm the continued evolution and deployment of telematics services, and in turn would undermine economic growth.

MBUSA, a unit of Daimler AG, is the sales and marketing company, and legal entity for Daimler AG in the United States. Our Mercedes-Benz products integrates wireless communications, location technology, computer capability and live operators to respond to emergencies and other driver needs along with our partner, Hughes Telematics. Our technology locates precisely where an individual facing an emergency is, communicates with the vehicle and its occupants, provides assistance and notifies emergency response agencies for help to be dispatched. Telematics is the only wireless offering providing the location of every call to a 9-1-1 center, even where the center cannot receive Phase II location information.

MBUSA's telematics include automatic crash notification (ACN) and Mayday in-vehicle button response and were developed around the cellular network. From this core technology, a range of location-based emergency capabilities – ACN; Mayday button response; Remote Door Unlock; Stolen Vehicle Recovery and Roadside Assistance - are



provided. The investment of automobile manufacturers, as well as Hughes Telematics and its competitors, brought precise and ubiquitous location capability to vehicles without a government mandate and without the need for corresponding PSAP investment. As automotive telematics evolves with the broadband environment, these services will continue to be dominated by customer emergency assistance needs with appreciably more valuable services across all manufactures yet without a government mandate but through market demand and private investment.

In using the cellular network, each telematics vehicle is assigned a phone number. Either Hughes Telematics or MBUSA pays a wireless carrier for the airtime incurred by each telematics device on a monthly basis. Communications are limited to data or voice transmissions between the vehicle and the call center. The communication, if it takes place at all, is of a very short duration. The cost, of which airtime constitutes only an incremental part, is in most circumstances recouped by a subscription purchased by the vehicle owner, not through the vehicle's sale price.

A telematics phone number reflects neither network use nor ability to communicate beyond the call center and vehicle. Extrapolated from our own records, we can show that the average number of calls per year from each vehicle is less than 2. The monthly USF assessment under the current structure averages approximately \$15,000. Under AT&T's proposal of \$1.00 per month per telephone number, the assessment will be over \$300,000 per month based on MBUSA's current telematics subscriber base. This calculates to over \$3.6 million per year in additional costs, and doesn't provide any additional features or efficiency gains to the vehicle owner, OEM or telematics provider. It must be added to the cost of operating the telematics system. That the fee will approach or exceed the cost of the airtime presents a confounding contradiction and results in a market determining factor.<sup>1</sup>

On July 10, 2009, AT&T filed a petition urging the Commission's immediate action to reform the USF contribution method by adopting AT&T's proposal to assess each telephone number a \$1.00 monthly fee. But throughout the Commission's review of USF assessment methods, as an automotive telematics provider, MBUSA believes that this will impact the deployment of advanced vehicle safety and/or highway safety services. If applied to all users, the proposal violates the law's fair and non discriminatory standard and is not competitively neutral. It will stop critical public safety features now being deployed across the automotive industry. Therefore, Mercedes-Benz USA, LLC (MBUSA) urges the Commission to reject any across the board monthly fee, and ensure that any USF fee parallel a service's use of the network.

Section 254(b)(4) of the Communications Act establishes the standard for the Commission to assess the fees supporting the USF. That standard requires that

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<sup>1</sup> *Ex Parte* Communication of ATX Group, Inc., (March 16, 2006) and *Ex Parte* Communication of ATX Group, Inc., (April 19, 2006) set forth in CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170.

contributions be “equitable and non discriminatory.” This underlying premise of any contribution mechanism requires fairness in allocating contribution duties. A wide disparity among users means that each cannot be assessed the same fee. AT&T’s proposal, with one exception, disregards this premise. It ignores that while automotive telematics is assigned a large number of phone numbers, the extent and frequency of network use is extremely confined. The exception involves AT&T and other carriers prepaid calling services. These services involve a handset device, a telephone number and access to the entire public switch network. Other than administrative convenience, AT&T does not distinguish why such should be assessed a fee based on network use and services such as telematics are not.

Automotive telematics is now being deployed to the broader and more price sensitive mass market vehicle. MBUSA is currently launching telematics-based safety features on all of its fifteen mass-market vehicle platforms. This path encompasses providing low-cost data centric features, with ACN its core feature, priced significantly lower than telematics initial offerings. This rollout relies on convincing large numbers of vehicle owners. Due to current economic conditions in the automotive industry, even an additional \$12.00 annual fee will be devastating to an offering that does not anticipate an interstate call for virtually all vehicles. The fee will have a profound effect and dictate decisions that should be left to the consumer.<sup>2</sup>

Automotive telematics in the broadband environment will continue to rely on capacity being distributed among all vehicles served by the system. Vehicle-to-vehicle or vehicle-to-infrastructure communications to and from the vehicle will similarly continue to be extremely limited and of very short duration. Costs, of which broadband will only be an incremental element, will be recouped in virtually all circumstances by subscriptions from individual vehicle owners. Accordingly, just as a flat rate charge assessed on each telephone number would be inequitable if applied to existing telematics services, extending such an approach in the broadband context (e.g., imposing flat connections-based charges irrespective of usage) would be wholly inappropriate. Just as a telephone-number charge would approach or exceed the cost of the interstate telecommunications service to each vehicle, a connection-based charge would have the same disproportionate relationship with the underlying cost of broadband connectivity. As a result, such excessive charges would threaten broadband’s rollout to all vehicle fleets.

The Commission already recognizes automotive telematics value in shaping wireless location responsibilities<sup>3</sup> as have associations dedicated to improving emergency

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<sup>2</sup> Comments of Toyota Motor Sales, Inc. (November 26, 2008), Comments of Volvo Group North America and WirelessCar North America (November 26, 2008), Comments of OnStar Corporation (November 26, 2008) and Comments of the ATX Group, Inc. (November 26, 2008) set forth in CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170.

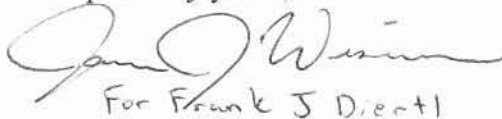
<sup>3</sup> In the Matter of Revision of the Commission’s rule to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Report and Order and Second Further Notice of Proposed Rulemaking*, CC Docket No. 94-102, IB Docket No. 09-67 FCC 03-290 at paragraph 72 (2003).

response.<sup>4</sup> MBUSA currently delivers emergency phone calls with electronic, vehicle location data from embedded, cellular-connected vehicles to all 9-1-1 centers in California and to most 9-1-1 centers in 27 other states. MBUSA is also now demonstrating an innovative, speech-enabled texting service that keeps driver interaction brief and easy to use, minimizing the risk of distracting the driver away from focusing on the safe operation of the vehicle. Next generation telematics offerings will deploy incident specific data transmissions directly to the 9-1-1 center and emergency medical facilities, with critical accident, patient diagnostics and other on-scene information relayed. Combined with critical driver safety features, the expansive and positive effect of competitive broadband across all economic sectors is clear. Yet, a crucial element of any competitive broadband marketplace is a USF assessment structure that is fair and equitable and comprehends the interests of all users and not just incumbent providers.

The enormous challenge associated with reforming USF funding is made more so by proposals that cast aside the law's strictures and halt the rollout of critical driver safety features. MBUSA urges the Commission to pursue a forward-looking contribution approach that recognizes the varying capacity demands across all users and services. It must reject telephone number or connection based schemes that impose a uniform assessment that has grossly disproportionate impacts across users. Any model must also acknowledge that those providing the spectrum are the most effective and efficient means to collect any assessment. Discrete and confined services, such as automotive telematics, rely on assessment structures that are fair, equitable and recognize level of use. Where a wide disparity exists between users, each cannot be assessed the same fee. Any USF reform must instill this principle into its contribution model. Otherwise, the deployment of critical driver safety features in all vehicles will be blocked by a market-distorting regulatory assessment.

Thank you for this opportunity to comment. If you have any questions, please do not hesitate to contact Dan Selke, of my staff, at [Daniel.Selke@mbusa.com](mailto:Daniel.Selke@mbusa.com), or 201-573-2616.

Respectfully yours,



For Frank J. Diertl

Frank J. Diertl  
General Manager  
Engineering Services

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<sup>4</sup> Letter of the Association of Public Safety Communications Officials, International (APCO) and National Emergency Number Association (NENA), November 25, 2008, set forth in WC Docket 06-122 and CC Docket 96-45.